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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,638	12/12/2002	Helmut Fennel	10543-032	8722

7590 11/25/2003

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EXAMINER

JACKSON, ANDRE K

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 11/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/936,638

Applicant(s)

FENNEL ET AL.

Examiner

André K. Jackson

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they may have not been considered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "the braking fluid" in line 15 of the claim. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meier (DE 4408879) in view of Reinartz et al.

Regarding claim 1, Meier discloses a "Brake circuit with motor for hydraulic pump" which determines the viscosity of a brake fluid as it is affected by temperature of a vehicle brake circuit (Abstract). Meier does not explicitly disclose a predetermined pressure build-up within time limits having the steps of detecting in at least one section of the brake circuit a pressure in the section and measuring at least one of a magnitude of the pressure or a time required for build up the pressure and relating the magnitude of the pressure or time to the viscosity. However, Reinartz et al. disclose in "Anti-lock hydraulic brake system" a predetermined pressure build-up within time limits having the steps of detecting in at least one section of the brake circuit a pressure in the section and measuring at least one of a magnitude of the pressure or a time required for build up the pressure and relating the magnitude of the pressure or time to the viscosity (Columns 1 and 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify

Meier to include a predetermined pressure build-up within time limits having the steps of detecting in at least one section of the brake circuit a pressure in the section and measuring at least one of a magnitude of the pressure or a time required for build up the pressure and relating the magnitude of the pressure or time to the viscosity as taught by Reinartz et al. By adding this feature the artisan would be able to determine the pressure as related to the viscosity and generate the critical pressure difference across the inlet valve.

Regarding claim 2, Meier does not disclose where the time required to build-up the pressure is determined by way of switching valves of the brake circuit which initiate a pressure build up. However, Reinartz et al. disclose where the time required to build up the pressure is determined by way of switching valves of the brake circuit, which initiate a pressure build-up (Columns 1 and 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Meier to include where the time required to build-up the pressure is determined by way of switching valves of the brake circuit which initiate a pressure build up as taught by Reinartz et al. since this modification would enhance the efficiency of an anti-lock brake installation.

Regarding claim 3, Meier discloses where the maximum magnitude of the pressure is determined (Figure 1).

Regarding claim 4, Meier discloses where the magnitude of the pressure variation is determined as a function of time (Figure 2).

Regarding claim 5, Meier does not disclose where one of the magnitude or time of the pressure is determined after activation of a pump of the brake circuit delivering the brake fluid or after opening of a valve of the brake circuit. However, Reinartz et al. disclose where the magnitude or time of the pressure is determined after activation of a pump of the brake circuit delivering the brake fluid or after opening of a valve of the brake circuit (Columns 1 and 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Meier to include where the magnitude or time of the pressure is determined after activation of a pump of the brake circuit delivering the brake fluid or after opening of a valve of the brake circuit as taught by Reinartz et al. since this modification would increase the performance of the braking system.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground of rejection.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to André K. Jackson whose telephone

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number is (703) 305-1522. The examiner can normally be reached on Mon.-Thurs. 7AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (703) 305-4705. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

A.J. 

November 13, 2003

  
HEZRON WILLIAMS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800